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**FISCAL IMPACT STATEMENT**

**LS 7072**

**BILL NUMBER:** HB 1257

**NOTE PREPARED:** Jan 1, 2009

**BILL AMENDED:**

**SUBJECT:** Teacher Background Checks.

**FIRST AUTHOR:** Rep. Barnes

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill exempts a postsecondary educational institution from paying a fee for a limited criminal history record of a student in the institution's school of education before the student begins the student's field or classroom experience.

The bill requires an expanded criminal history background check for a person seeking to obtain or renew a teaching license or certificate, and allows a person to submit a copy of an expanded background check to the Department of Education (DOE) if the original expanded background check was performed in the previous six months and the person has not been arrested or convicted since the original background check was performed. It also makes it a Class A misdemeanor for a person to knowingly or intentionally make a material misstatement or material omission in support of an application for or the renewal of a teaching license.

The bill also requires DOE to revoke the license of a person who is a sex or violent offender.

**Effective Date:** July 1, 2009.

**Explanation of State Expenditures:** *Postsecondary Institutions Fee Exemption:* The total number of postsecondary students for which a name-based limited criminal history background check is currently conducted is not known. To the extent that a postsecondary school of education is currently paying the fee for a student to obtain a name-based limited criminal history background check, expenditures for the postsecondary school of education would be reduced. Fees for name-based limited criminal history background checks are as follows: \$16.32 for persons who do not subscribe to AccessIndiana, \$15 for AccessIndiana subscribers, or \$7 by mail. [*Note:* Current statute refers to these checks as limited criminal history checks.]

Under current law, a person may request a criminal history check review challenge (fingerprint identification is required) after having obtained a limited criminal history check (which can be obtained through subject or fingerprint identification). As proposed, the number of name-based limited criminal history checks could increase, impacting the number of criminal history check review challenges for the state. If criminal history review challenges increase as a result of this bill, revenue to the General Fund can increase by fees paid for these requests. Currently, the Indiana State Police (ISP) charges \$10 per review challenge. Actual increases of review challenges is indeterminable.

*Indiana State Police:* As proposed, the ISP could experience an increase in workload if postsecondary institutions demand more limited criminal history checks. If postsecondary institutions are exempt from fees used to pay for processing these requests, ISP would have to manage the additional workload within their current level of resources. However, ISP may experience an offsetting decrease in workload to the extent that teachers were required to provide name-based limited criminal history checks obtained through ISP. [Note: ISP reverted \$185,000 to the General Fund in FY 2007.]

*Fingerprint Vendor Selection:* The ISP reports that an applicant fingerprint vendor has recently been selected and that the final price for the fingerprint transaction has yet to be finalized. This contract will allow the Records Division of the ISP to receive applicant fingerprint cards electronically and will result in more efficient operations in the Records Division by decreasing workload and increasing response time for requested background checks. The selection of a fingerprint vendor may influence revenue to the General Fund, as well as the workload of the ISP under the bill. Actual impact on workload and revenue is indeterminable as information regarding the vending contract is not currently available.

*Revocation of Teacher's License for Certain Offenses:* The bill adds convicted sex and violent offenders to the list of individuals that are to have their teaching licenses permanently revoked after a hearing. The Department of Education is required to hold a hearing before permanent revocation is ordered. The bill will increase the workload of DOE in order to hold hearings regarding individuals that are sex or violent offenders and currently have teaching licenses in Indiana. The number of convicted sex or violent offenders in the state that also hold teaching licenses is unknown.

*Background Information:* A name-based limited criminal history check is defined as a criminal history check that searches within the state any criminal activity associated with a person's legal name(s). This check must include (1) a disposition and (2) a photograph of the person who is the subject of the limited criminal history, if a photograph is available. The term includes information about any arrest or criminal charge that occurred less than one year before the date of a request even if no disposition has been entered. A limited criminal history background check is obtained through the ISP.

An expanded criminal history check refers to name-based searches performed on criminal activity associated with a person's legal name(s) in (1) all counties within the state of Indiana for seven years preceding the date of the background check, (2) records maintained by all counties or similar government units in another state where a person resided during the past seven years, and (3) a check of the sex offender registry in all 50 states or the national sex offender registry maintained by the U.S. Department of Justice. Additionally, a national criminal history background check will suffice under the definition of an expanded criminal history check.

A national criminal history background check is defined as a fingerprint-based check that uses the Federal Bureau of Investigation's (FBI) Automated Fingerprint Identification System (AFIS) to match an applicant's

fingerprints to any crimes committed by that applicant nationally or any other method of positive identification. A national criminal history background check is also obtained through the ISP.

A criminal history check review challenge occurs when an applicant who received a name-based limited criminal history check challenges the results by submitting to a fingerprint-based criminal background check performed by the ISP.

Additionally, it should be noted that the ISP reports that an applicant fingerprint vendor has been selected recently, but information regarding this contract is not currently available. The fiscal impact of this legislation was determined given the current options for fingerprint-based criminal background checks in the state. It is indeterminable what effect, if any, the contract will have on individuals that request criminal history information.

**Explanation of State Revenues:** *Expanded Criminal History Check for Teachers Applying for Certification and Licensure:* This bill requires individuals that apply for teaching licensure and certification (both renewal and new requests) to complete an expanded name-based criminal history check and a sex offender registry check of all 50 states as a condition of the application process. Background check policies vary by school corporation; some request limited criminal history and/or national criminal history background check information, while others do not. The Department of Education reports approximately 30,000 applied for teacher licensure or permits during school year 2007-2008.

The bill defines what is required in an “expanded criminal history check”. This check includes a search of either, (1) all records maintained by all counties in Indiana where the search subject resided during the past seven years, a search of all records maintained by all counties in other states where the search subject resided during the past seven years, and a check of the sex offender registry in all 50 states or the national sex offender registry operated by the U.S. Department of Justice; or (2) a national criminal history background check and a check of either the sex offender registry in all 50 states or the national sex offender registry maintained by the U.S. Department of Justice. The bill would require teachers applying for certification or licensure to either obtain an expanded name-based criminal history check or a national background check, both of which would satisfy the requirements of the application process.

National criminal history background checks cost a total of \$32.25, \$17.25 of which is given to the federal government and the remaining \$15 is deposited into the state General Fund. Revenue to the General Fund may increase to the extent that teachers applying for certification and licensure request national criminal history background checks as opposed to purchasing expanded criminal background checks from private companies.

If the state experiences (1) a decrease in the number of limited criminal history checks requested by teachers or (2) a decrease in the fees paid by postsecondary institutions but no change in the limited criminal history check requests made by postsecondary institutions, the state will experience a decrease in revenue to the General Fund and Indiana Office of Technology (IOT) Portal Fund. Actual General Fund decreases will be \$7 per request, and for the IOT portal fund of \$1 or \$1.32 per request (depending on the method used to request the background check).

	Current Law	As Proposed
<b>Type of Check and Requirement</b>	All licensure applicants are required to submit at least a limited criminal history check. However depending on school corporation or charter school policy, <u>may</u> be required to submit a national criminal history check for new hires.	Would be required to collect national criminal history check or expanded history check for all individuals applying for licensure and certification (renewals or new applicants).
<b>Fee</b>	<u>Limited</u> : \$16.32 for persons who do not subscribe to AccessIndiana, \$15 for AccessIndiana subscribers, and \$7 by mail; fee is waived for school corporations; or <u>National</u> : \$32.25, \$15 of which is deposited into the state General Fund, \$17.25 is forwarded to the federal government.	\$32.25, \$15 of which is deposited into the state General Fund, \$17.25 is forwarded to the federal government.  Fees for expanded criminal history checks are not known. However, no revenue would be forwarded to state/local governments.
<b>Fee Responsibility</b>	Applicants for licensure and renewal are responsible for all costs associated with obtaining licensure (renewals and new applicants).	Applicants for licensure and renewal would be responsible for all costs associated with the requirements of the bill.

*Postsecondary Schools of Education Fee Exemption:* To the extent that a student or a postsecondary school of education currently obtains a name-based limited criminal history check for the purposes of the bill, the state would experience a decrease in revenue to the state General Fund and the IOT Portal Fund. Actual decreases would depend on the number of students obtaining a name-based limited criminal history check, the method in which the check was obtained, and the fee paid for the check. Postsecondary institutions will experience a decrease in expenditures only to the degree they were paying for criminal background checks for students prior to this bill.

Phone interviews with selected state universities revealed that the policies regarding payment for criminal background checks in postsecondary institutions varied across the board; sometimes the burden fell on the student, and sometimes the institution funded the cost of the check. Actual numbers of criminal background checks by postsecondary institutions was indeterminable because each institution has different policies regarding background checks for students and few kept data on how many background checks they had requested in years past.

*Modification of Criminal History Check Policy:* Fees vary for limited criminal history background checks and depend on the method in which the information is obtained. Revenue from fees collected is deposited into the state General Fund and the IOT Portal Fund. Currently, individuals challenge the results of a name-based criminal background check by requesting a fingerprint-based review challenge. Fees are assessed for a review challenge and these fees are deposited in the General Fund. Any change in revenue would depend on the number of persons currently requesting a review challenge (for which the state would experience a decrease of \$10 per review challenge) and the number of people who would, under the bill, obtain a name-based expanded criminal history check (for which the state would experience no increase in revenue) and then subsequently obtain a review challenge (for which the state would experience an increase in revenue of \$10 per review challenge).

*Penalty Provision:* The legislation adds a new criminal penalty for misrepresentation or omission for individuals that either provide false information or omit certain information on their application for or renewal of their teacher's license. Under the bill the penalty is a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state

General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

**Background Information:** In FY 2007, ISP reports that criminal background checks generated \$2.3 M in revenue for the General Fund.

**Explanation of Local Expenditures:** *Revocation of Teacher's License for Certain Offenses:* The bill adds that a local prosecuting attorney is required to notify a public or nonpublic school and the Division of Professional Standards when a known licensed employee is a sex or violent offender. This will increase the workload of local prosecuting attorneys. The number of sex or violent offenders that currently hold teaching licenses is unknown.

**Penalty Provision:** A Class A misdemeanor is punishable by up to one year in jail.

**Explanation of Local Revenues:** *Revenue from Fingerprint Cards:* Currently, if a fingerprint card is obtained through an ISP post, of which there are 18 statewide, it is free. If it is obtained from a local law enforcement agency, fees vary. Fees collected from fingerprint cards are used by the local police department which collects the fee. ISP reports that the fingerprint vendor selected uses electronically submitted fingerprint cards. Information regarding how these fingerprint cards will be made available electronically is currently not available but may have an impact on the revenue collected at the local level. Any impact to the fingerprint card fees collected at the local level is unknown.

**Penalty Provision:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** ISP; DOE; IOT; Postsecondary schools of education.

**Local Agencies Affected:** Local school corporations and townships; Charter schools; Trial courts, local law enforcement agencies.

**Information Sources:** Major Doug Shelton, ISP, (317) 232-8265; DOE Databases; ISP Record Division, ISP Website ([www.in.gov/isp](http://www.in.gov/isp)); Dean Mark Ferguson, Vincennes University, (812) 888-4301; Kathy Herald, Ball State University College of Nursing, (765) 285-1834; Tom Warner, Ball State University Associate Vice President for Business Affairs, (765) 285-1133; Cindy Wise, Indiana University, (812) 855-9845; Cathy Sleeth, Purdue University (765) 494-5927; Debbie Hine, DOE, (317) 232-0840.

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